

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WAYNE BERRY,

: Index No. 07-CV-7634 (Judge
: William H. Pauley III)

Plaintiff,

: ECF Case

-against-

DEUTSCHE BANK TRUST COMPANY
AMERICAS (F/K/A BANKERS TRUST
COMPANY) AND JP MORGAN CHASE BANK IN
THEIR SEPARATE CAPACITIES AND AS
AGENTS FOR THE PRE AND POST-PETITION
LENDERS OF FLEMING COMPANIES, INC.;
GENERAL ELECTRIC CAPITAL CORPORATION;
C&S WHOLESALE GROCERS, INC.; THE POST-
CONFIRMATION TRUST OF FLEMING
COMPANIES, INC.; ROBERT KORS; CORE-
MARK HOLDINGS INC.; AND DOES 1-200,

Defendants.
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**DEFENDANT GENERAL ELECTRIC CAPITAL CORPORATION'S
NOTICE OF MOTION TO DISMISS**

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, Defendant General Electric Capital Corporation ("GECC") respectfully will move this Court for an Order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing all claims against it for failure to state claims upon which relief may be granted.

Dated: January 25, 2008
New York, New York

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By: /s/

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Corporation*